



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,767	10/01/2003	Michael Samuel	522.0001	7915
3404	7590	03/09/2006	EXAMINER	
PURDUE LAW OFFICES 2735 N. HOLLAND-SYLVANIA ROAD SUITE B-2 TOLDEO, OH 43615				CHAN, KO HUNG
ART UNIT		PAPER NUMBER		
		3632		

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/676,767	SAMUEL, MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Korie H. Chan	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 December 2005.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/12/2005.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

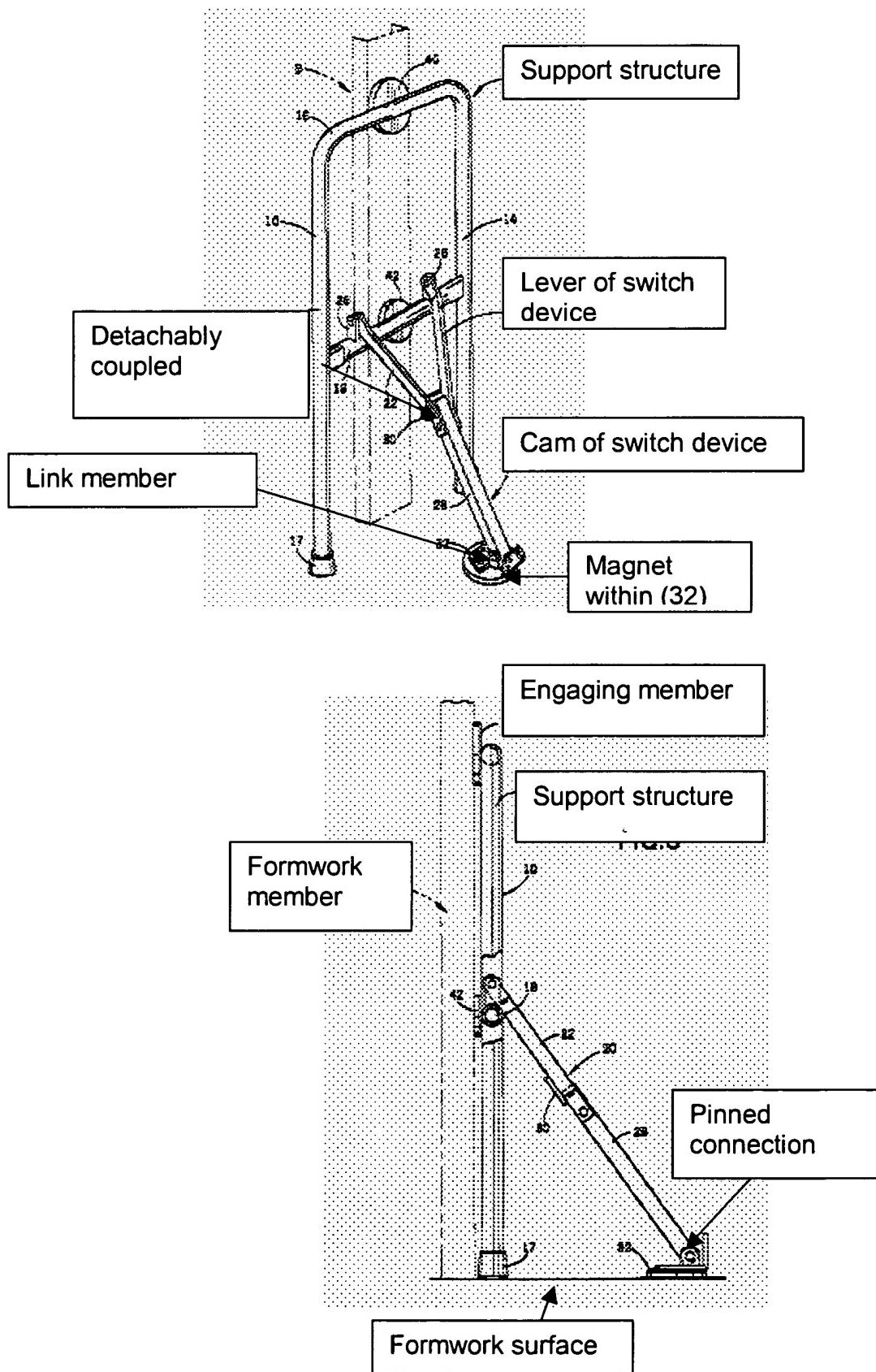
The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

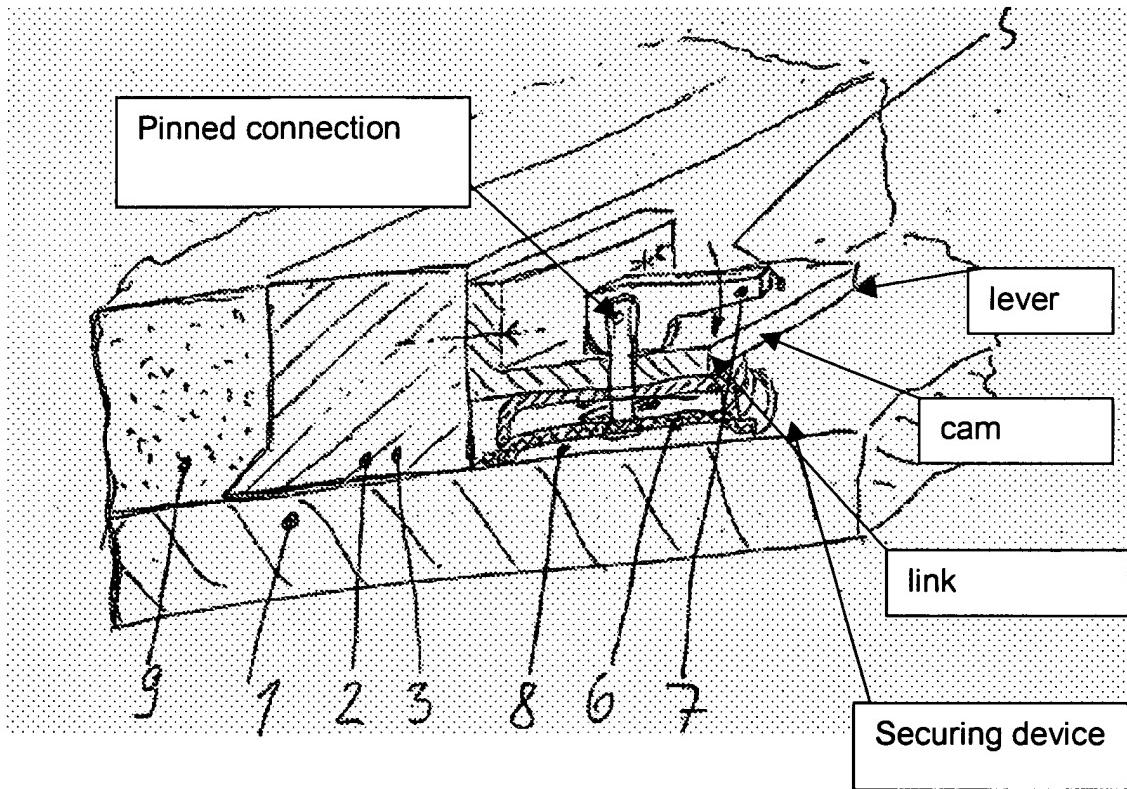
Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The newly added recitation "the switching device being rotatable independently of the magnetic element between an operating position...and a non operating position" applied to all independent claims are vague and indefinite for the reason that the switch device activates the magnetic element into working and non-working position by rotation of the switching device. When the switching device rotates, the magnetic device also moves. Consequently, the switching device is not independent of the magnetic element.

***Claim Rejections - 35 USC § 102***

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schillero, Jr. (US patent no. 6,029,407). Schillero Jr. disclosed all the claimed features of applicant's invention as illustrated below.



Claims 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by German patent (DE19746452) to Eipel. Eipel disclosed all the claimed features of applicant's invention as illustrated below.



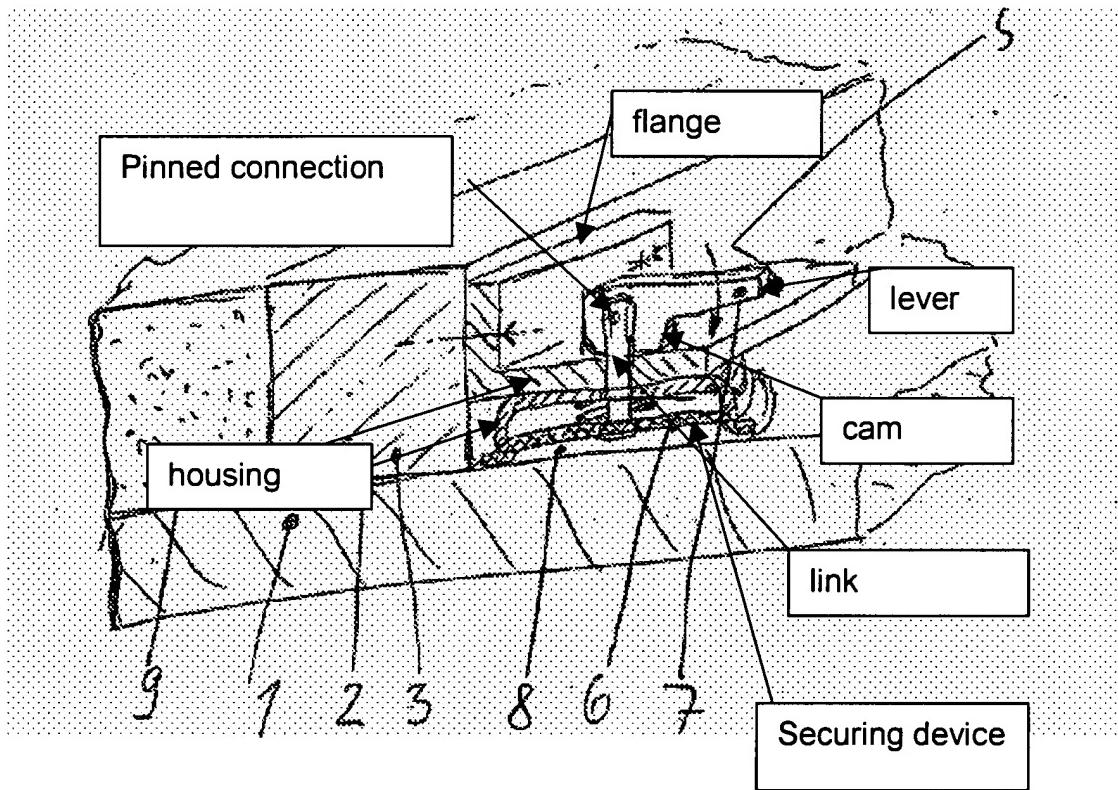
#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-12, 15, 16, 22-26, and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over German patent (DE19746452) to Eipel in view of French patent no. (FR2,552,259) to Vavasseur. Eipel disclosed all the claimed features of applicant's invention as illustrated below.



However, Eipel does not disclose the securing element is a magnetic element but rather a suction cup element and flange with aperture for fastener. Vavasseur teaches in a supporting apparatus for supporting formwork member comprising a magnetic supporting element (9) within the housing and a flange (4) with apertures for fastener. It

would have been obvious to one of ordinary skill in the art to have modified the suction cup of Eipel such that it is of the magnetic type since they are well-known mechanical equivalents and to provide apertures to the flange for fastening to the formwork as taught by Vavasseur.

Claims 7 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over German patent (DE19746452) to Eipel in view of French patent no. (FR2,552,259) to Vavasseur and further in view of Budreck (US patent no. 2,976,075). Eipel and Vavasseur combined disclosed all the claimed features of applicant's invention as illustrated above except for the lever as detachably coupled to the cam. To provide a lever of several sections is old and well-known. It has the known advantage in individual part replacement. Budreck teaches a lever with a detachable portion (34). It would have been obvious to one of ordinarily skilled in the art to have modify the lever of Eipel and Vavasseur such that the lever is of a detachable portion as taught by Budreck to facilitate replacement.

Claims 13-14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over German patent (DE19746452) to Eipel in view of French patent no. (FR2,552,259) to Vavasseur and further in view of Pietrobon (US publication 20030155683). Eipel and Vavasseur combined disclosed all the claimed features of applicant's invention as illustrated above except for tilt adjuster or jack on a non-engaging side of the support structure. Pietrobon teaches a formwork support apparatus having apertures (40, figure 7) in the flange (46) for attachment to a formwork and a tilt adjuster or jack (54, figure 7) on the non-engaging side for tilt adjustment of

the support to compensate for imperfections in the edge forms (page 3, paragraph 0056-0057). It would have been obvious to one of ordinary skill in the art to have modify the support apparatus of Eipel and Vavasseur combined by providing a tilt adjuster or jack on the non-engaging face of the housing for tilt adjustment of the support to compensate for imperfections in the edge forms as taught to be desirable by Pietrobon.

***Allowable Subject Matter***

Claims 19-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed December 12, 2005 have been fully considered but they are not persuasive. Applicant argues that Schillero, Jr. does not disclose a magnetic element which secures the support device to a framework. Examiner disagrees and has clearly illustrated that which is equivalent to the claimed language of magnetic element and the recited formwork and formwork surface.

Regarding Vappula, the rejection has been withdrawn.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
March 1, 2006